

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

KLUGMANN, individually and on behalf of all
others similarly situated,

Plaintiff

v.

AMERICAN CAPITAL LTD., MALON
WILKUS and JOHN R. ERICKSON,

Defendants

Civil Action No. 09-cv-00005-PJM

LEHMANN, individually and on behalf of all
others similarly situated,

Plaintiff

v.

AMERICAN CAPITAL LTD., MALON
WILKUS and JOHN R. ERICKSON,

Defendants

Civil Action No. 09-cv-00276-AW

**THE MOTION OF THE AMERICAN CAPITAL INVESTOR GROUP TO
CONSOLIDATE RELATED ACTIONS; TO BE APPOINTED LEAD PLAINTIFF; AND
TO APPROVE PROPOSED LEAD PLAINTIFF'S CHOICE OF COUNSEL**

The American Capital Investor Group (or “Movants”) respectfully moves this Court for an order: (1) consolidating all related actions; (2) appointing Movants as Lead Plaintiff in these Actions pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by Section 101(b) of the Private Securities Litigation Reform Act of 1995 (“PSLRA”), and (3) approving its selection of the law firm of Brower Piven, A Professional Corporation (“Brower Piven”) and Izard Nobel LLP (“Izard Nobel”) as Co-Lead Counsel for Lead Plaintiff and the Class.

The American Capital Investor Group makes this Motion on the belief that it is the most “adequate plaintiff” as defined in the PSLRA because: (1) its members have incurred substantial losses of approximately \$786,628.94, the largest financial interest in the relief sought by the Class, as a result of its members’ purchases of shares of American Capital securities during the Class Period, and (2) its members satisfy the typicality and adequacy requirements of Fed. R. Civ. P. 23.

The American Capital Investor Group further requests that the Court approve its selection of Brower Piven and Izard Nobel as Co-Lead Counsel for Lead Plaintiff and the Class. These firms have actively investigated the allegations raised against Defendants. Further, these law firms are nationally-recognized law firms with significant class action, fraud, and complex litigation experience, with the resources to effectively and properly pursue these Actions.

The facts and law supporting this Motion are fully set forth in the accompanying Memorandum In Support Of The Motion Of The American Capital Investor Group To Consolidate Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff’s Choice Of Counsel and the Declaration of Charles J. Piven In Support Of The Motion Of The American Capital Investor Group To

Consolidate Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff's Choice Of Counsel.

WHEREFORE, for all of the reasons set forth herein and in the Memorandum In Support Of The Motion Of The American Capital Investor Group To Consolidate Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff's Choice Of Counsel and the Declaration of Charles J. Piven In Support Of The Motion Of The American Capital Investor Group To Consolidate Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff's Choice Of Counsel, submitted herewith, the American Capital Investor Group respectfully requests that this Court: (1) consolidate all related Actions; (2) appoint the American Capital Investor Group as Lead Plaintiff; (3) approve the American Capital Investor Group's selection of Co-Lead Counsel for the Class; and (4) grant such other and further relief as the Court may deem just and proper.

Dated: February 13, 2009

Respectfully submitted,

BROWER PIVEN

A Professional Corporation

/s/ Charles J. Piven

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*Counsel for the American Capital Investor
Group and Proposed Co-Lead Counsel for the Class*

CERTIFICATE OF SERVICE

I hereby certify that this Motion Of The American Capital Investor Group To Consolidated Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff's Choice Of Counsel with the Memorandum In Support Of The Motion Of The American Capital Investor Group To Consolidated Related Actions; To Be Appointed Lead Plaintiff; And To Approve Proposed Lead Plaintiff's Choice Of Counsel and the Declaration of Charles J. Piven In Support Of The Motion Of The American Capital Investor Group To Consolidated Related Actions; To Be Appointed Lead Plaintiff And To Approve Proposed Lead Plaintiff's Choice Of Counsel (with Exhibits A-F) were filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on February 13, 2009.

/s/ Charles J. Piven

Charles J. Piven